Postal Regulatory Commission
Submitted 2/15/2023 4:28:49 PM
Filing ID: 124484
Accepted 2/15/2023

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268–0001

PERIODIC REPORTING (NPPC ET AL. PROPOSAL ONE)	Docket No. RM2023-3

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE REGARDING MAILERS' PROPOSAL ONE
(February 15, 2023)

In Order No. 6430 (January 25, 2023), the Commission identified this docket as the one in which the Commission would consider the efforts of a consortium of mailer representatives (Mailers) to modify the established treatment of Retiree Health Benefit (RHB) normal costs, denominated as Proposal One.[1] Ostensibly pursuant to Order No. 6430, two sets of comments were filed on February 8 by representatives of signatories to the original Proposal One.[2] The Postal Service hereby offers its reply to the pleadings filed by Mailers and by PostCom on February 8, 2023.[3]

---

[1] The Mailers' preferred normal cost treatment was set forth in a pleading styled as "Motion For Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs," submitted on December 19, 2022. by NPPC, ANM, ACMA, PostCom, MMA, NAPM, and N/MA ("Mailers"). Further details regarding the relevant procedural background of this matter are provided in the Postal Service's Motion for Leave to File Reply Comments, being filed concurrently with these Reply Comments, and those details are addressed in even greater depth in Order No. 6430 itself.

[2] One set of comments was submitted on February 8 by all signatories to the original Proposal One filing save ACMA, and another separate set was submitted by PostCom. The Mailers' Comments were accompanied by a Statement by Professor John Panzar.

[3] As noted above, a separate motion for leave to file these reply comments is being submitted concurrently.

A. Mailers Erroneously Argue that the Accounting Cost Cap is Contrary to the Statutory Standard for Cost Attribution

Mailers take issue with the finding in Order No. 6430 that the accounting cost cap is a long-standing analytical principle that prohibits the inclusion of RHB normal costs in the product costs reported in the FY2022 ACR because including these costs in product costs would result in RHB attributable costs exceeding RHB accounting costs. Mailers' Comments at 12.[4] Mailers contend that the Commission did not identify a source for that regulatory principle. *Id.* PostCom similarly characterizes the accounting cost cap principle as "undefined" and likewise complains of the lack of a precise citation to prior authority where that principle has been endorsed. PostCom Comments at 1-3. The Mailers (pages 16-18) go so far as to allege that the principle potentially conflicts with the explicit statutory provision establishing "reliably identified causal relationships" as the required basis for cost attribution, and therefore argue:

> The accounting cost cap appears to be a policy consideration developed by the Commission and Postal Service; the statutory definition overrides conflicting agency-developed practices.

Mailers' Comments at 18.

It is truly ironic that Mailers would question the source of the accounting cost cap and simultaneously claim that it contradicts the applicable statutory attributable cost standard. In fact, it is that statutory attributable costs standard that *compels* the accounting cost cap. As the Commission stated:

> Attributable costs are statutorily defined as "the direct and indirect postal costs attributable to . . . product[s] through reliably identified causal

[4] Mailers on pages 1-2 offer the label of the "accounting cost cap" as shorthand for the regulatory principle that attributable costs in a given year cannot exceed accrued accounting costs in the same year. The Postal Service views that as useful terminology and will likewise adopt it in these reply comments.

> relationships." 39 U.S.C. 3631(b). Economic cost analysis is relevant to the determination of attributable costs in some circumstances because it can identify and measure costs with a causal relationship to a product or group of products (as it has in the case of retiree health benefit normal costs). However, because attributable costs are a subset of total postal costs, they cannot exceed the corresponding total accounting costs, which define and measure the accrued costs of the Postal Service each fiscal year.

Order No. 6430 at 20-21. In other words, the anchor of "reliably identified" costs in any given year must be the accrued costs in that given year. There are no limits to the hypothetical exercises that could be pursued in which various counterfactual scenarios can be contemplated with the purpose of estimating what postal accrued or attributable costs could be or should be under circumstances other than those that exist in the fiscal year being reported. What the Commission indicates, however, is that when those exercises generate attributable costs that exceed the accounting costs accrued in the year in question, they have strayed beyond the acceptable bounds of the reliable causation standard.[5]

As the Postal Service pointed out in its filing of January 4th, the Commission has previously discussed how accounting costs (and not economic costs) form the basis of the accrued costs that are subject to attribution. *See* Postal Service Response (January

---

[5] Mailers seek to make their proposal more palatable by assuring the Commission that through the sequence of positive normal cost attributions and negative institutional cost plugs they have presented, total overall annual costs reported in the CRA can be matched to the same total in the Form 10-K Report. Mailers' Comments at 4, fn. 9. The only conceptual limits of this approach, however, are those imposed by the total overall amount of true institutional costs, such that the accounting cost cap of accrued costs would be replaced by a cap derived from the amount of unrelated institutional costs available to plug the total back to the Form 10-K amount. (Of course, even that constraint assumes that an annual overall institutional cost that is negative is nonsensical from a regulatory perspective, yet at least some of the Mailers seem to question that logic as well in the context of the other aspect of the effects of the PSRA on RHB funding that is currently being litigated.) The complete deviation inherent in such an approach from the reliable causation standard is self-evident.

4, 2023), at 9 (citing Commission Op. & Rec. Dec., Docket No. R90-1, Volume 1 (Jan. 4, 1991), at III-102 – III-134). While it is true, as PostCom points out in its Comments at page 3, that the specific economic costs being considered in that instance differ from those being considered here, the fact that normal costs may perhaps be more easily measured than other forms of economic costs does not serve to counteract the fundamental principle adhered to by the Commission. Nor can the Mailers point to Congress' codification of the attribution standard in the PAEA as somehow necessitating a change to this approach. As the Commission has recognized, Congress in the PAEA simply codified the long-standing attribution approach that had been developed by the Commission prior to the PAEA. *See, e.g.*, Order No. 6399 at 31 n.37 (Jan. 9, 2023).

When it comes to the Postal Service's accounting costs, neither Mailers nor PostCom dispute the relevant facts in this matter – Congress imposed no obligation on the Postal Service for RHB expenses in FY 2022. *See, e.g.,* Mailers' Comments at 10-11. Critically, however, the removal of any FY 2022 obligation was a direct consequence of the broader aim of the PSRA to remove the RHB prefunding obligation imposed by the PAEA, and to essentially revert to a pay-as-you-go regime (albeit with a transition period leading to that ultimate result). *See* Postal Service Response (January 4, 2023) at 7-9. The effect of the PSRA is clear: the Postal Service is no longer required to pay RHB normal costs, which is an actuarial calculation of the future RHB liability earned by employees in the current year. Rather, the Postal Service is only subject to future RHB payment obligations that are based on the premiums paid by existing annuitants in a given year, one which is contingent: (1) the "top-up" payment, which reimburses the Postal Service Retiree Health Benefits Fund (PSRHBF) for a portion of the payments that the Fund makes each year, and (2) the obligation to pay the entire remainder of the Government contribution to annuitant premiums if the PSRHBF assets are exhausted. *See* 5 U.S.C. §§ 8906(g)(2), 8909a.[6]

Mailers seek nothing less than to engage in a counterfactual exercise in which the Commission would ignore the intent of the PSRA and proceed as if the PAEA prefunding obligation had not been repealed. For example, Mailers contend:

> But regardless of the particular funding requirement in effect in each year and the size of that year's invoice, in its annual compliance reports the Postal Service has *always* attributed incremental RHB normal costs to products by dividing the accounting cost into current year RHB costs and prior year costs, and categorizing the former as either attributable or institutional according to established methodologies not at issue in this proceeding.

Mailers' Comments at 8 (emphasis in original). That claim that the Postal Service has "*always*" attributed costs in this way is true only in the trivial sense that Mailers have imposed a qualifier ("in its annual compliance reports") that facially limits the scope of the statement to the years in which the PAEA prefunding obligation was in effect.[7] The PSRA removed that prefunding obligation, with direct (and intended) consequences on accrued accounting costs, and the reliable causation standard precludes continued attribution of costs beyond the amounts that Congress has prescribed.

---

[6] The proper regulatory costing treatment of the future top-up payments, or the payments to cover annuitant premiums if the PSRHBF is exhausted, is not the subject of this proceeding.

[7] See the Postal Service Response (January 4, 2023) at 10-11 for examples of decades of prior years (i.e., pre-PAEA) in which the Postal Service did not attribute normal costs.

For example, on page 15, Mailers quote a portion of the Statement of Professor Panzar to the effect that "RHB normal costs for future benefits are caused by current volumes of mail to the same extent that current wages are caused by current volumes of mail." With all due respect, that claim is true only to the extent that Congress has established concrete RHB obligations that create such a causal linkage, yet Congress has repealed those obligations, and there is no reliable basis on which to assert such a linkage in the absence of those obligations. As noted above, the Postal Service's RHB obligations are predicated on pay-as-you-go amounts based on annuitant premiums, and is partly contingent on the future funding status of the RHB Fund.[8] Regardless of the purported obliviousness of the Mailers and PostCom, the accounting cost cap is firmly rooted in the reliable causation costing standard that was implicit in the statute pre-PAEA (by virtue of the *NAGCP IV* decision) and explicit in the statute post-PAEA.

B. PostCom's Claims that the FY 2022 Accounting Treatment of RHB Expenses is Unexplained Border on the Frivolous

PostCom (at 4) alleges that it is "unclear" why economic costs and accounting costs diverge in FY 2022, since in the view of PostCom if normal costs were simply treated for accounting purposes and regulatory purposes the same in FY 2022 as they

[8] The funding status of the RHB Fund is, moreover, dependent on the level of future outlays from the Fund (representing the Government contribution towards annuitant premiums), and future inflows into the Fund (in the form of investment earnings and top-up payments from the Postal Service). 5 U.S.C. 8909a. It is also dependent on the Administration's decision regarding the Postal Service's request to correct the methodology for allocating Civil Service Retirement System (CSRS) costs between the Treasury and the Postal Service for employees who worked for both the Postal Service and the Post Office Department. *See Delivering for America: Our Vision and Ten-Year Plan to Achieve Financial Sustainability and Service Excellence*, at 39 (describing the Postal Service's request that the Administration change its approach). Any change in this regard could increase the assets within the RHB Fund. 5 U.S.C. § 8348(h)(2)(C) (specifying that any postal CSRS surplus be transferred to the RHB Fund at specified intervals).

were in FY 2021, there would be no divergence. PostCom implies there is some mystery as to why the Postal Service treated RHB costs as it did in the FY 2022 General Ledger:

> PostCom recognizes that the Postal Service's financial statements have been audited and found to be in accordance with GAAP. *Still, the Commission must understand why RHB Normal Costs that were incurred in FY2022 were not included as expenses on the Postal Service's balance sheet.* If they had been, there would be no question of how to report those expenses in the FY2022 ACR. The Postal Service's economic costs would not have exceeded its accounting costs; the Cost and Revenue Analysis would have reflected the RHB Normal costs that were incurred in FY2022; and a portion of those costs would have been attributed using accepted analytical principles.
>
> But because these costs were not accounted for, there is a disconnect between the costs the Postal Service incurred in FY2022 and the costs it is reporting in its financial statements. *At a minimum, the Commission must investigate and explain why the Postal Service has not identified the normal costs as expenses.* It is only the failure to treat these costs as expenses that created the need for this Petition.

PostCom Comments at 6 (emphasis added). PostCom continues in this same vein:

> [The Commission's] statement does not explain why the normal costs were not included in expenses when using accrual accounting nor why they do not impact the Postal Service's balance sheet. The statute requires the Postal Service to identify the normal costs it incurred, and the Postal Service did so. Then, *for an unknown reason*, it chose to ignore them in its accounting.
>
> The Commission's current approach suggests that even though the Postal Service will continue to incur RHB normal costs going forward so long as its employees earn benefits, these costs will never be reflected as expenses or attributed in regulatory reporting. It is absurd to simply ignore a cost that is undoubtedly incurred. *The Commission should not endorse this outcome absent a full and satisfactory explanation of why these costs have not been treated as expenses.*

Id. at 6-7 (emphasis added).

There is, however, no mystery regarding the basis for the Postal Service's current accounting treatment of its RHB expenses. That was explained in the Form 10-K Report, to which both the Mailers and PostCom refer extensively:

> Retiree Benefits
> Career employees are eligible to participate in the U.S. government pension and retiree health benefits programs. We are required to provide funding for these plans as determined by OPM, the administrator of the plans. We cannot direct the costs, benefits, or funding requirements of the plans. Accordingly, the plans are accounted for using multiemployer plan accounting rules, and expenses are recorded in the period in which the contributions are due and payable. Retirement benefit expenses, including FERS normal costs, FERS amortization, and CSRS amortization cost are recorded within Retirement benefits in the accompanying Statements of Operations. Any unpaid amounts at the end of the period are included within Retirement benefits in the accompanying Balance Sheets. Although retiree health benefit expenses were cancelled by the PSRA, these previously included retiree health benefit normal costs and PSRHBF amortization. These costs are presented within Retiree health benefits in the accompanying Statements of Operations. Any unpaid amounts at the end of the period are included within Retiree health benefits in the accompanying Balance Sheets.

FY 2022 Form 10-K Report (November 10, 2022) at 52. PostCom (as quoted above) alludes to GAAP, and the Postal Service simply follows the multiemployer plan accounting procedures mandated by GAAP under the circumstances presented in FY 2022.[9] What PostCom cannot seem to accept is the reality that those circumstances changed, relative to FY 2021, because of the passage of the PSRA.

It must be further noted, however, that PostCom is totally off-base to infer (as reflected in the above quotation) that the "Commission's current approach suggests that

---

[9] PostCom's also erroneously argues (page 5) that the FY 2022 treatment of RHB expenses is inconsistent with the Postal Service's Handbook F-1. Review of the relevant section of that Handbook reveals that exact opposite is actually the case:

> Corporate Accounting is responsible for monthly recording via journal voucher of retiree health benefits expenses based on OPM billings.
>
> Accounting Services is responsible for matching OPM records to Postal Service payroll data files for comparability in support of Corporate Accounting evaluation of the OPM billings.

Section 7-1.5.2, Handbook F-1 (Accounting and Reporting Policy) (January 2015), page 67 (within Section 7-1.5, Retiree Health Benefits).

even though the Postal Service will continue to incur RHB normal costs going forward so long as its employees earn benefits, these costs will never be reflected as expenses or attributed in regulatory reporting." Normal cost are estimates of the present value of a future liability, and are therefore associated with an RHB prefunding mechanism. As noted, the PSRA repealed the prefunding mechanism, and essentially returned to a pay-as-you-go regime. In that type of regime, assuming that Congress makes no further changes, the RHB expenses are not "ignored," but will instead be reflected in RHB expenses in later years after those employees are retired (although predicated not on an actuarial estimate of a future liability, but on actual premium expenses incurred when current employees become annuitants). Clearly, PostCom (and the Mailers) would prefer that those expenses be recognized earlier using a prefunding mechanism, but that preference cannot justify misleading suggestions that the underlying RHB amounts will "never" be reflected as expenses or attributed (at least to some degree) in regulatory reporting.

C. Mailers' Arguments Regarding the Fairness Effects on Workshare Cost Avoidances are Misplaced

Mailers erroneously suggest that it would be unfair to private mail preparation firms to allow the effects of the repeal of PAEA RHB prefunding requirements to flow through to the estimated workshare postal cost avoidances, because those firms "do not have the advantage of Congress legislating away their payment obligations for a few years." Mailers' Comments at 21. The Postal Service was not aware that those firms were prefunding their employees' RHB costs, to the extent that they choose to offer retiree health coverage at all. It would be difficult for Congress to legislate away their payment obligations if such obligations are not even imposed to begin with.

Regardless, Congress did adjust the Postal Service's obligations after previously imposing them. It is not unfair for the workshare cost estimates to be premised on the actual costs being paid by the Postal Service as directed by Congress. That was the situation under the PAEA prefunding obligations, and that remains the situation now that the prefunding obligation has been repealed.

Therefore, for the reasons explained above and in the Postal Service's previous comments in this docket, the Postal Service respectfully requests that the Commission reject the Mailers' Proposal One regarding the treatment of RHB normal costs.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

James L. Tucker
Chief Counsel, Pricing & Product Support

Eric P. Koetting

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 277-6333
eric.p.koetting@usps.gov
February 15, 2023